

February 2, 2015

The following 70 pages are the public comments about the Crystal Spring Conservation Plan submittal #3 (submitted 12/31/14). These comments were received between 1/30/15 at noon and February 2, 2015.

Were a duplicate message was received it is so noted.



Unknown ForestConservationAct <forestconservationact@annapolis.gov>

THIS MESSAGE WAS RECEIVED SEVERAL HUNDRED TIMES OVER
THE PUBLIC COMMENT PERIOD.

Jan. 30th Public Comment

1 message

Melanie Conopask <Mconopask@hotmail.com>

Fri, Jan 30, 2015 at 12:29 PM

To: ForestConservationAct@annapolis.gov, mayor@annapolis.gov, mbroadbent@annapolis.gov,
PlanZone@annapolis.gov, mikepantelides@gmail.com

Dear Mayor, Ms. Broadbent, Members of the Planning Commission,

We the citizens of greater Annapolis implore you to reject the latest Forest Conservation Plan (FCP) submitted December 31st, 2014 for the Crystal Spring development. This latest version is marginally different from the previous version submitted on June 25, 2014. It still will cut down over 43 acres of Priority Forest, a negligible difference from the previous version. We would like to point out that this is still more than half of all the forest on the 111-acre Crystal Spring parcel. Cutting this much forest will lead to habitat fragmentation and increased biological invasion by plants such as Japanese Barberry, Japanese Honeysuckle, Eurasian Bittersweet, Kudzu, Porcelain Berry, and many others. In addition, it will remove from the city a major carbon sink contained in the soils, wood fiber, and in the canopy.

Cutting this much Priority Forest violates that Forest Conservation Act because the developers have not done all that they can to protect the contiguous forest area nor have they demonstrated that the plan cannot be reasonably altered to reduce forest impacts by another 50-75%. This further demonstrates how the development is the wrong size and the wrong type for such an ecologically significant area as Crystal Spring Farm.

On January 4, 2015, an American Woodcock (*Scolopax minor*) was documented on the Crystal Spring property by a staffer from the Cornell Laboratory of Ornithology during the Anne Arundel Bird Club's annual Christmas Bird Count. This is the first record of this species at Crystal Spring in many years. Crystal Spring is the last known habitat on the Annapolis Peninsula for the Woodcock, which require extensive areas of open fields and short second-growth for cover and for their elaborate mating display. If CSF is allowed to be developed with such an extensive project, this species will be wiped out from Annapolis forever.

As we have previously stated, we firmly believe the developers' wetland delineation is deficient, underestimated the amount of wetlands on the property by up to 50%. As a result, according to independent analysis, wetland impacts would potentially exceed thresholds under the Maryland General Permit. As a result, direct non-tidal wetland impacts will still be up to 1.2 acres, a level that exceeds thresholds under the Maryland General Permit (GP).

We ask that DNEP and the Planning Commission reject this FCP because it lacks proper mitigation for the aforementioned impacts.

Mayor Pantelides, once again we will remind you that you campaigned vigorously to stop the project, not to make it slightly smaller. Please stand by your word that you will stop this project.

The developers would have you believe that the City has no authority to stop the project, but the facts are clear. The project would not comply with The Clean Water Act or the Maryland Forest Conservation Act, and as a result the City has the authority and the duty to require serious changes, not incremental ones, in order to come into compliance. It is in the best interest of all Annapolis and Anne Arundel County citizens for you to do this.

--

Melanie Conopask
Mconopask@hotmail.com



Unknown ForestConservationAct <forestconservationact@annapolis.gov>

Annapolis Conservancy Board Comments on Crystal Spring FCP

1 message

Karen Jennings <kljennings.geo@gmail.com>

Fri, Jan 30, 2015 at 12:47 PM

To: ForestConservationAct@annapolis.gov

Cc: Thomas Lippert <Thomas.Lippert@med.navy.mil>, Meg Hosmer <meg.hosmer@gmail.com>, Trudy McFall <trudymcfall@hotmail.com>, dclift@usni.org, Robert Savidge <RSavidge@annapolis.gov>, Tami Hook <tamiboo34@hotmail.com>

Comments from the Annapolis Conservancy Board on the Crystal Spring Forest Conservation Plan Revisions are below and attached.

January 29, 2015

Maria Broadbent, Director

Department of Neighborhood and Environmental Programs

City of Annapolis

Annapolis, MD 21401

Dear Ms. Broadbent:

The Annapolis Conservancy Board reviewed the most recent submittal package of the Crystal Spring Forest Conservation Plans at our January 8th meeting.

We have previously submitted comments to the Planning Commission (April 20, 2011) and to the Annapolis Department of Planning and Zoning (July 12, 2012). We appreciate the improvements the development team have made to the site design in order to conserve larger blocks of forest and preserve a wildlife corridor connecting greenways on either side of the property.

We would like to reiterate the following recommendations from our previous comments:

1. All structures and construction-related activities should remain outside of the 25-foot buffer around wetland areas in order to better preserve wetland functions. We are concerned that the C4 building of the CCRC is too close to the adjacent wetland to prevent construction impacts to the 25-foot buffer.
2. Vernal pools should be included within the conservation easement due to the unique environmental habitat they provide for amphibian species.
3. Stormwater management facilities (including LID features) should be located outside of conservation easements so that they do not interfere with easement inspection and maintenance. Additionally, runoff from large impervious areas should be treated and outfall discharge velocities minimized before draining

into conservation easement areas. Stormwater outfalls should not be placed in areas of highly erodible soils ($K > 0.35$).

Since our previous comments in 2012, it has come to our attention that the southwestern portion of the property is identified as a target conservation area in the 2002 Anne Arundel County Greenways Master Plan. Hence, we have the following additional recommendations:

4. In the southwest corner of the property (CCRC buildings C5 through C8, and other structures), consider reducing the number of buildings, increasing the density of the buildings, or relocating the buildings in order to minimize impacts to this area and increase the greenway corridor width.
5. Undeveloped forested areas and reforestation areas should be placed into permanent conservation easements.

We thank you for this opportunity to comment on the Crystal Springs Forest Conservation Plans. Please feel free to contact us if you have any questions.

Sincerely,

Karen L. Jennings

Chair, Annapolis Conservancy Board



ACB_CS_FCP_012915.pdf
12K

→ Attached comments
the same as email.
See next page

January 29, 2015

Maria Broadbent, Director
Department of Neighborhood and Environmental Programs
City of Annapolis
Annapolis, MD 21401

Dear Ms. Broadbent:

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We thank you for this opportunity to comment on the Crystal Springs Forest Conservation Plans. Please feel free to contact us if you have any questions.

Sincerely,

Karen L. Jennings
Chair, Annapolis Conservancy Board



Unknown ForestConservationAct <forestconservationact@annapolis.gov>

To the Mayor

1 message

Polly Rodriguez <pb.rodriguez@gmail.com>

Fri, Jan 30, 2015 at 1:43 PM

To: ForestConservationAct@annapolis.gov

Dear Mayor Pantelides,

Annapolis is at a historical crossroads. The city has made choices in the past that have changed the face of our town through development. While some construction and concepts enhanced the integrity of what is special about Annapolis (our maritime heritage, for example), others have shamelessly ruined the aesthetics of our neighborhoods for profit.

Mayor Pantelides, in your campaign, you promised to use your power to protect our city from the vast proposed damage of the Crystal Springs Farm development.

Crystal Spring is a development of such proportion that every citizen should be allowed to have a vote in its approval. It is unlike other Annapolis developments in scale and permanent damage to sensitive environmental areas. The additional pressures it will add to our existing infrastructure is excessive. And, I would have to point out, none of the commercial or residential additions are actually needed.

Do we have enough grocery stores? or upscale shops? or traffic?

Rather than just a case of "Is it legal?" - perhaps the wiser, broader view should be "Do we need it?"

The character of Annapolis is our treasure. And tourists continue to come here to explore its uniqueness. That is valuable.

Be careful not to let it be spoiled.

I am not alone in believing that the entire project is inappropriate for our town, on every level.

This would be a perfect moment to impose a moratorium to review what is best for Annapolis.

I remember the Rockfishing Ban. The idea of it was outrageous. There was a lot of pushback from many areas.

But it was the right thing to do.

and we all knew it.

It took a few years.

And it worked. The fish needed time to stabilize without unbridled pressure.

As a resident who has family that dates back to the turn of the century, raised children in both private and public school system and currently own properties in the city and county, I feel a deeply indebted to Annapolis.

Mayor Pantelides, you are the person that we entrust this stewardship.

Please do the right thing for us.

Respectfully,

Dr. Polly Rodriguez
3324 Harness Creek Road
Annapolis, MD



Unknown ForestConservationAct <forestconservationact@annapolis.gov>

Comment on Crystal Springs LLC 12-31-14 Forest Conservation Plan Application

1 message

Joe Budge <joe@budge.com>

Fri, Jan 30, 2015 at 1:56 PM

To: ForestConservationAct@annapolis.gov

Cc: Peter Gutwald <pgutwald@annapolis.gov>, Sally Nash <SNash@annapolis.gov>, Maria Broadbent <mbroadbent@annapolis.gov>, Michael Leahy <mgleahy@annapolis.gov>

The City has requested public input on the most recent revisions to the Crystal Spring Forest Conservation Plan. I am not in a position to comment on their Forest Conservation Plan *per se*. However, in their Forest Clearing Plan Justification the applicant states:

"The development proposes a network of streets and blocks designed to build upon existing infrastructure in a manner consistent with the "Urban Center Low" character type of development targeted for the northeastern section of the Forest Drive Opportunity Area as shown in the 2009 Annapolis Comprehensive Plan."

As a member of the Comprehensive Plan Citizen Advisory Committee that helped shape the 2009 Comprehensive Plan, I have serious concerns about the development's consistency with the Comprehensive Plan in this and several other aspects. My concerns are based on the limited information available in the Forest Conservation Plan application.

I look forward to expressing my thoughts in detail when the City opens the process for public comment on matters beyond the FCP and the applicant provides information that speaks to the Comprehensive Plan.

Sincerely,
Joe Budge
9 Randall Court
Annapolis, MD 21401



Unknown ForestConservationAct <forestconservationact@annapolis.gov>

Crystal Spring Forest Conservation Plan Revisions

1 message

Nona Eucare <nonaeucare@gmail.com>

Fri, Jan 30, 2015 at 2:07 PM

To: ForestConservationAct@annapolis.gov

Cc: MPantelides@annapolis.gov, Mayor@annapolis.gov, MBroadbent@annapolis.gov, PGutwald@annapolis.gov, aldpfeiffer@annapolis.gov

I am writing to you as a city resident, who is very concerned to see a lot of my neighbors and city residents fall for the misleading information out there about this project via environmental no-growth groups who use their negative propaganda to persuade the public to speak out against it. I work for the current property owner and I believe, because of this, I may be more informed than most city residents as I have attended city meetings, city work sessions, debates, traffic forums, and information sessions organized to provide information regarding this project.

This current plan has many positive environmental features including, but not limited to, a wildlife corridor, upgraded and restored stormwater management and the preservation of 125+ city acres that will NEVER be developed. This plan has evolved through, for many years now, the cooperative efforts of the development team, the South River Federation and the Annapolis City Planning Commission and DNEP. It now not only meets but exceeds the city's regulations regarding the Forest Conservation Act. And, as such, should be approved by the City.

Other positive aspects I see with this project moving forward are the employment opportunities it will offer to my friends and neighbors who struggle financially to live here. This plan is also very practical for the seniors who are drawn to Annapolis as their retirement destination opening the current housing market for younger generations. Annapolis needs these opportunities so we can grow to support growing demands. We are blessed to live in such a viable city that is capable of expanding to meet those demands. I want our City government to represent all of its residents, not just those small but vocal groups of no-growth advocates who oppose it with their exaggerations and misleading information they share with anyone willing to listen and sign a petition.

Thank you for your time and consideration.

Nona Eucare
209 Victor Pkwy Apt G
Annapolis, MD 21403
410-271-6432



Unknown ForestConservationAct <forestconservationact@annapolis.gov>

Public comment on Crystal spring Plan -

1 message

Janet Norman <j_e_norman@yahoo.com>

Fri, Jan 30, 2015 at 2:54 PM

Reply-To: Janet Norman <j_e_norman@yahoo.com>

To: "ForestConservationAct@annapolis.gov" <ForestConservationAct@annapolis.gov>

Dear Annapolis City Staff,

In what I could discern from the information on the City website on Crystal Spring, I urge you to delay any approval of the developer's Forest Conservation Plan.

I am very troubled by Appendix F, where the building footprint extends into the 100 ft. stream buffer. In addition, the City Fire Marshall's comments indicate that access to the building would be needed all around for firefighters, thereby increasingly encroaching into the inadequate forest buffer.

The developer claims there will be a conservation easement placed upon a portion of the forest. Who will be the holder of the easement, and is that organization accredited by the Land Trust Alliance? I am aware that the largest land trust in Anne Arundel County, Scenic Rivers Land Trust, has not expressed interest in holding the easement for this property. What independence and financial resources will the easement holder have to bring legal action against easement condition violations? The Annapolis Conservancy Board is nominated by the Mayor and approved by the Council - how would politician influences affect independent thinking on that Board, and its ability to provide adequate stewardship of this property in perpetuity? And what large endowment of legal funds does the Annapolis Conservancy Board have that they, and not the City Council, can decide to employ for legal action?

I am also concerned about the financial and legal liability the City exposes itself to in accepting the developer's Forest Conservation Plan, while the City has no adopted Forest Conservation Plan manual in accordance with state regulation.

I would like to see the developer answer the City's numbered conditions outlined by Mr. Frank Biba and Mr. Tom Smith, point by point.

These, and many other questions, cause me to fully believe that acceptance of this Crystal Spring Forest Conservation Plan is premature.

Thank you for your consideration.

Janet Norman
787 Annapolis Neck Rd., Ward 7
Annapolis, MD 21403



Unknown ForestConservationAct <forestconservationact@annapolis.gov>

Crystal Spring Forest Conservation Plan Comments

1 message

earlbradley@verizon.net <earlbradley@verizon.net>

Fri, Jan 30, 2015 at 3:49 PM

To: forestconservationact@annapolis.gov

Dear Ms. Broadbent,

I urge you to the Mayor's opposition to any development below the intermittent stream on the Crystal Spring site and significant reduction to proposed intensity of development on the site.

In addition to forest clearing threshold noted in the proposed forest conservation plan, the State Forest Conservation Act requires no disturbance of forest areas identified as priority forest unless the applicant has demonstrated that reasonable efforts have been made to protect them and the plan can not be altered. Reduction of economic value is not to be considered as part of such consideration. This requirement is to be considered separate from the forest clearing threshold.

The developer agrees that all the forest on the site is priority forest. He should be commended for moving the Continuing Care Center (CCC) main building closer to Forest Drive and proposing a larger forested wildlife corridor. However, his proposed plan doesn't provide any significant reduction in the proposed residential and commercial development which is much more intense than that envisioned in the City's Comprehensive Plan. Over 500 residential units are proposed rather than the 140 unit limit noted in the Comprehensive Plan. Construction of the additional proposed residential development and the proposed inn, and community arts center will require the removal of a significant amount of additional priority forest. With the construction of a third major grocery store along Forest Drive, such development is also likely to have a significant adverse economic impact on downtown Annapolis and cause more traffic on already congested Forest Drive. The amount of impervious surface created by the proposed development would inevitably have a major adverse impact on the adjacent Crab Creek.

The location of the proposed cottage and apartment development associated with the CCC in the southeast corner of the site is incompatible with that envisioned in the City's Comprehensive Plan for the southern half of the site and will have an adverse impact on the adjacent forested wildlife corridor. Traffic to and from that development will reduce the integrity of the wildlife corridor. Elimination of the proposed townhouse development, inn, and community arts center (which were not envisioned in the city's Comprehensive Plan) and moving the development proposed in the southeast corner above the intermittent stream near the main CCC building would reduce significantly the adverse environmental, economic, and traffic impact of the Crystal Spring development.

Yours sincerely,

Earl H. Bradley Jr.

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Unknown ForestConservationAct <forestconservationact@annapolis.gov>

Fwd: Crystal Spring Statement

1 message

Maria Broadbent <mbroadbent@annapolis.gov>

Fri, Jan 30, 2015 at 3:59 PM

To: ForestConservationAct <forestconservationact@annapolis.gov>

Maria T. Broadbent
Director
City of Annapolis
Dept. of Neighborhood & Environmental Programs
145 Gorman St.
Annapolis, MD 21401
410-260-2200

----- Forwarded message -----

From: **Bri Glendening** <briglendening@comcast.net>
Date: 2015-01-30 14:11 GMT-05:00
Subject: Crystal Spring Statement
To: MBroadbent@annapolis.gov

Dear Ms. Broadbent: Please accept the attached as my statement on the Crystal Spring Project. Notice of receipt would be appreciated. Thank you. Parris Glendening



Governor Glendening Comments on PFCP.docx
22K

← See next 4 pages

January 30, 2015

Ms. Maria Broadbent, Director
Department of Neighborhood and Environmental Programs
City Hall
160 Duke of Gloucester
Annapolis, MD 21401

Re: Comments on Crystal Spring Preliminary Forest Conservation Plan Filed on 12/31/15.

Dear Ms. Broadbent,

These comments are submitted on the Crystal Spring Preliminary Forest Conservation Plan (PFCP). My family and I live in Chesapeake Harbour. I am very familiar with the development site.

I have previously communicated serious concerns over this development in meetings with both the incumbent and previous Mayor. I also have joined with other community leaders opposed to this development in submitting written comments. I share their concerns based on the environment and traffic. I focus my comments herein on one aspect of the filings by the developers: Smart Growth.

My experience and expertise in Smart Growth and its principles goes back many years including my terms as Governor of Maryland when we enacted and implemented the first state-wide smart growth program. That approach rapidly became a model used at both the state and local levels across the Country today. Many sources now refer to me as the "father of Smart Growth."

For the past twelve years I have served as President of Smart Growth America's Leadership Institute in Washington, D. C. This is a nonpartisan, non-profit advocacy group and think tank dedicated to reducing sprawl, conserving open space, agriculture and forestland and revitalizing existing communities. In this capacity I speak all over the country and world advising elected officials, community leaders and policy makers on Smart Growth principles. In recent years I have spoken in countries as far away as China, India and Australia on the fundamentals of smart growth and how to successfully implement them.

I make these points to emphasize how disappointing it is to see in my own community a typical sprawl development with considerable destruction of important forestland and other environmental damage be presented and defended as "smart growth." I must be very clear about this. The proposed Crystal Spring development project and most specifically the Preliminary Forest Conservation Plan filed with the plan is not smart growth.

It is important to note that I write as a concerned citizen. These views are independent of Smart Growth America.

Based on my understanding of the filings, I join with many neighbors and colleagues in urging you to reject outright the Crystal Spring Preliminary Forest Conservation Plan and unequivocally can state that the current plans do not meet Smart Growth criteria. Using Smart Growth to support the clearing of 43 acres of mature, contiguous forest designated by State and City law as a priority for retention and protection is disingenuous since this development flagrantly violates Smart Growth principles.

The previous and current plans submitted by the developer have gone into quite a bit of detail about how the development meets the principles of Smart Growth. Please allow me to dispel such a notion.

In a February 15, 2013 letter to former Mayor Cohen from 27 local leaders which I helped draft and signed, we advised him that the proposed project does not meet the standards or principles of Smart Growth. In that letter, we stated that "We understand and appreciate your commitment to Smart Growth for Annapolis but the plans being promoted by the current development team for the largely wooded 110-acre tract grossly violate both the spirit and intent of the goals you set forth for this and other projects proposed in the City of Annapolis.... As Governor Glendening advised you "adjacency is not Smart Growth."

A copy of the letter was previously sent to you.

Clearly, the Forest Conservation Plan filed on December 31, 2014 exacerbates this isolation condition, separating 73 senior living housing units at the extreme southern end of the property. As the current Mayor has insisted, these units all should be moved to the north of the intermittent stream and be integrated with the rest of the development. Such a move does not in any way change my opinion that the FCP should be rejected. The development as planned still would violate Smart Growth principles.

In a February 18, 2013 email to two City Aldermen concerned with the project, I wrote: "From my perspective of watching similar proposals advance in MD over the last 40 years and even now as I work on these issues across the Nation, I can state with confidence that as currently advanced this project should not move ahead. It certainly is not Smart Growth." Nothing in the most recent filings changes my opinion.

Complying with Smart Growth is somewhat amazingly being used to justify the flawed PFCP as well as the variance for clearing specimen trees and for the City exemption for clearing priority forest. This should not be allowed to stand. If it follows the principles of Smart Growth, DNEP should reject the FCP and deny any variances for clearing specimen trees as an unwarranted hardship. Smart Growth dictates the protection of such natural features as priority forest and clearly reasonable efforts have not been made to protect them. The plan can be reasonably altered to protect much more of the priority forest. A start toward meeting legal and Smart Growth requirements would be to eliminate much of the development at the heavily wooded north end of the property that is not related to a continuing care retirement center, by eliminating all building south of the intermittent stream and by adhering to the Comprehensive Plan limit of 140 housing units clustered at the northern end.

In the most recent filings, at page 32 of the document filed with your office entitled "Crystal Spring - Point By Point Response", the developers contend that:

"Response: This updated Preliminary Forest Conservation Plan demonstrates further improvement in the Smart Growth approach in part by further concentrating the cottage and Maison Court elements of the CCRC in one cluster design in the meadow area of the property, in contrast to the previous approach where the elements were separated into two distinct areas. It should also be noted that, in accommodating staff preferences to move the CCRC from out of the middle section of the property, the proposed plan still has 24,000 square-feet of office over retail but the reduced footprint of the retail is no longer adequate to also support residential over retail.

None of the shortcomings noted by Planning and Zoning were addressed by any meaningful changes in the plan submitted, nor are they consistent with or advance smart growth. Using Smart Growth to justify such priority forest and specimen tree destruction should not be countenanced. Smart Growth dictates that open space, natural beauty, and critical environmental areas should be protected and the developer's filings acknowledge this as one of the principles of Smart Growth.

I have reviewed the Forest Clearing Justification filed by the developers on December 31, 2014. In attempting to justify the clearing of 43.46 acres of priority forest and specimen trees, the developers continue to use compliance with Smart Growth as a major reason justifying such destruction of mature, contiguous forests. Five full pages of the 22 pages of their Forest Clearing Justification document are devoted to Smart growth arguments. See pages 12-17.

No matter how many times the developers wrap themselves in the cloak of smart growth nor how many pages they devote to claiming that it is, the current plan for this development simply is not Smart Growth. The use of Smart Growth to justify this development and the clearance of so much priority forest is clearly unwarranted and cannot stand up to scrutiny.

I respectfully submit to you that the current Forest Conservation plan should be rejected. Smart Growth principles should not be used by the City as justification for clearing 43.46 acres of priority forest.

Even as I make this request focused primarily on forest conservation concerns, I must note that I continue to believe the Crystal Spring development is an anti-smart growth, sprawl producing, automobile dependent project that should not be approved. It will weaken potential investment in already existing communities.

Thank you for considering my comment,

Sincerely,

Parris N. Glendening

Governor (1995-2003)

2177 Chesapeake Harbour Drive

Annapolis, MD 21403



Unknown ForestConservationAct <forestconservationact@annapolis.gov>

Oppose Crystal Springs

1 message

Virginia Sattler <vsattler@verizon.net>
To: ForestConservationAct@annapolis.gov

Fri, Jan 30, 2015 at 4:03 PM

I have written to the Mayor and to City and County Planning committees over the past 6 months.

The project is too dense, too many buildings. There is no need for more townhomes along Forest Drive. As for the proposed food store, the area has a number of grocery stores (Giant, Safeway, Whole Foods, Shoppers Food Warehouse, and Fresh Market), so why another?

My main concern is the traffic. There are no new roads planned and our current streets: Forest Drive, Bay Ridge Avenue and Bay Ridge Drive are overcrowded and I don't see a possibility for additional lanes or new roads. If new roads are possible, the developers should be contributing to the cost. Is it true the County could deny Crystal Spring right of way on the county roads adjacent to Crystal Springs?

Crystal Springs, the Reserve at Quiet Waters and up to 200 condos at the Eastport Shopping Center will compromise the quality of life and safety of those living in this area. And, it is my understanding there will be an office building on Bay Ridge Road near the CVS.

In addition to the loss of a forest, we will have a negative impact on quality of life, safety, schools and roads.



Unknown ForestConservationAct <forestconservationact@annapolis.gov>

Annapolis Environmental Commission Comments on Crystal Spring PFCP

2 messages

Kurt Riegel <kurt.riegel@gmail.com>

Fri, Jan 30, 2015 at 3:58 PM

To: Maria Broadbent <MBroadbent@annapolis.gov>, ForestConservationAct@annapolis.gov
 Cc: Mike Pantelides <mayor@annapolis.gov>, Michael Leahy-city attorney <mgleahy@annapolis.gov>, tandrews@annapolis.gov, Ald Fred Paone <aldpaone@annapolis.gov>, Fred Paone <triandos4@aol.com>, Ald Ian Pfeiffer <aldpfeiffer@annapolis.gov>, Ald Jared Littmann <AldLittmann@annapolis.gov>, Ald Joe Budge <aldbudge@annapolis.gov>, Ald Kenneth Kirby <aldkirby@annapolis.gov>, Ald Rhonda Pindell Charles <AldPindellCharles@annapolis.gov>, Ald Ross Arnett <aldarnett@annapolis.gov>, Ald Sheila Finlayson <aldfinlayson@annapolis.gov>, Bevin Buchheister <buchheister@msn.com>, Bill O'Leary <boleary@jcv.org>, Diane Butler <DianeButler827@aol.com>, "Fred (Rick) Kissel" <frkissel@verizon.net>, Lon Powell <email4LLPowell@gmail.com>, Paul Murphy <paul@paulmurphyannapolis.com>, Sari Kiraly <sarikiraly@gmail.com>, Ted Weber <savethereefs@gmail.com>

Attached are official comments by the Annapolis Environmental Commission on the submittal of a Preliminary Forest Conservation Plan by the Crystal Spring developers.

We are happy to provide this advice to the city and are available for conversations and additional input that will help the city toward decisions that are best for the environment and citizens of the City of Annapolis.

Sincerely,

Kurt Riegel
 Annapolis Environmental Commission
 307A Monterey Ave
 Annapolis MD 21401
 Kurt.Riegel@gmail.com
 410.507.2999 Verizon cell

Please see email following AEC
 document for changes sent by
 Kurt Riegel on 2/5/15



AEC-CS-PFCP-final.pdf

703K

Kurt Riegel <kurt.riegel@gmail.com>

Fri, Jan 30, 2015 at 4:04 PM

To: ForestConservationAct@annapolis.gov

Sent as an additional copy for verification of receipt.

From: Kurt Riegel [mailto:kurt.riegel@gmail.com]

Sent: January 30, 2015 15:59

To: Maria Broadbent (MBroadbent@annapolis.gov); 'ForestConservationAct@annapolis.gov'

Cc: Mike Pantelides (mayor@annapolis.gov); Michael Leahy-city attorney (mgleahy@annapolis.gov); 'tandrews@annapolis.gov'; Ald Fred Paone (aldpaone@annapolis.gov); Fred Paone (triandos4@aol.com); Ald Ian Pfeiffer (aldpfeiffer@annapolis.gov); Ald Jared Littmann (AldLittmann@annapolis.gov); Ald Joe Budge (aldbudge@annapolis.gov); Ald Kenneth Kirby (aldkirby@annapolis.gov); Ald Rhonda Pindell Charles (AldPindellCharles@annapolis.gov); Ald Ross Arnett (aldarnett@annapolis.gov); Ald Sheila Finlayson (aldfinlayson@annapolis.gov); Bevin Buchheister (buchheister@msn.com); Bill O'Leary (boleary@jcv.org); Diane Butler (DianeButler827@aol.com); Fred (Rick) Kissel (frkissel@verizon.net); Lon Powell (email4LLPowell@gmail.com); Paul Murphy (paul@PaulMurphyAnnapolis.com); Sari Kiraly (sarikiraly@gmail.com); Ted Weber (savethereefs@gmail.com)

Subject: Annapolis Environmental Commission Comments on Crystal Spring PFCP

[Quoted text hidden]



AEC-CS-PFCP-final.pdf

703K

January 30, 2015

Ms. Maria Broadbent, Director
City of Annapolis Department of Neighborhood and Environmental Programs
City Hall
160 Duke of Gloucester
Annapolis, MD 21401

*Annapolis Environmental Commission Comments on the December 31, 2014 Updated Submittal
by Crystal Spring Development (CSD), Crystal Spring Preliminary Forest Conservation Plan
(PFCP)*

Dear Ms. Broadbent:

The Annapolis Environmental Commission (AEC) submits the following comments regarding the above referenced PFCP submittal.

Introduction

Annapolis has very little forest left. The site of the proposed development contains the largest among the last.

The AEC has consistently urged the city and the developers to recognize the importance of the forests, wetlands, stream, soils, and other natural resources on site, and to make every effort to preserve these resources. We note that the latest plan helpfully moves the structures away from the center of the property where many of the wetlands and high-quality forest and the headwaters to the intermittent stream are located. We also note that the current plan jeopardizes other important environmental features and submit these comments with our recommendation that the city cause such deficiencies to be rectified. The comments that follow reiterate certain earlier comments made by the AEC that were not addressed, and include others pertinent to this updated PFCP submittal.

Considerations Pertaining to the Destruction of Priority Forest

The Forest Conservation Act requires that reasonable efforts be made to protect priority forest and requires the developer to show that the plan cannot reasonably be altered. The applicant must show that all techniques for retaining existing forest cover on-site have been exhausted. Scaling back the development should be accomplished before approving requests to destroy any portion of the priority forest. In particular, a large percentage of the proposed development is dedicated to inefficient and destructive open parking lots, and this footprint could be reduced greatly by using structured parking (multi-story garages). The City has been advocating this since 2011.

The forest on the site is considered a contiguous forest according to Natural Resource Article 5-1607 c (ii): "Contiguous Forest that connects the largest undeveloped or most vegetated tracts of land within and adjacent to the site" is a priority for retention and protection. Stand A, part of Stands B, C, D and Stand E (using the Dec 2012 labels) are large vegetated tracts within the site, thus a priority for retention, and contiguous to forested tracts off site. See the "Ecological Values" sections below.

The applicants still assert on p. 21 of the Forest Clearing Justification that this project cannot be further scaled back because the four "nodes" including the Continuing Care Retirement Community, the Village Green, the commercial section and the townhomes all rely on each other, and are all essential, and none is a standalone element. No facts apart from the applicant's own assertion support this. Many communities in the City exist without retail within their development boundaries and there is more than enough retail on Forest Drive to support the additional residents proposed in this development. Smart growth means developing where services already exist, and they do exist along Forest Drive, which obviates new such amenities all packed onto a single development site. Characterizing this development as smart growth and using this as a justification for destruction of 44.24 acres of priority forest is misleading and should not be accepted.

Developer's Priority for Retaining Environmental Resources

In the document Forest Clearing Justification we note that the developers still accord the lowest of all priorities for retaining environmental resources, to the objectives of Wildlife Corridor and Tree Stands. We reiterate and reemphasize that these are foremost among the objectives of the Forest Conservation Act, not the least as the latest proposal continues to state.

In other words, the developers' priorities make little sense in a context of achieving the main purpose of a forest conservation plan, retaining forest and habitat. The stated order of priorities pretty much guarantees that the primary FCA objectives cannot be met. The forest stand boundaries were submitted to DNEP and accepted in 2013. The city should not change the boundaries *post hoc* in a kind of new Forest Stand Delineation (FSD) within this PFCP.

On page 1 of the Forest Clearing Justification, the applicant claims that they have exhausted all techniques for retention of the remaining areas of Priority Forest. We do not agree, and recommend that the city implement the recommendations contained in this AEC response to pursue additional opportunities.

CSD Claims Regarding Unwarranted Hardship

The Forest Clearing Justification is unchanged in continuing to claim "unwarranted hardship." Since neither the city nor the AEC has ever held that "the entire Priority Forest" must be preserved, this is a "straw man" argument and should be disregarded. There is no "unwarranted hardship" within the meaning of the body of law that applies.

The AEC believes that further project reconfiguration and rescaling are necessary to preserve essential environmental values, and that this can be accomplished without creating unwarranted hardship.

The justification for clearing priority forest appears entirely based on a desire to maximize the profitability of the project. Reducing the profitability of a project by reducing the extent of the development in order to address forest conservation and other environmental objectives, does not itself create an unwarranted hardship. (Note 1)

For example, a city decision to disallow destruction of forest in the southwestern portion of the site and require additional afforestation in that area, will not constitute unwarranted hardship considering that the applicant proposes destroying most of the priority forest designated for preservation in the

northeastern portion of the site. If the city decides to allow destruction of tens of acres of priority forest for retail, commercial and assisted living residential units, then this would be deemed as allowing more than “reasonable use” of the property.

The developer continues to compare the current site plan to prior site plans as part of their justification. This is irrelevant (especially considering that both plans significantly exceed the footprint proposed during the annexation hearings and greatly exceed anything contemplated in the comprehensive plan). Current site conditions, as described in the Forest Stand Delineation, are the legal starting point of a Forest Conservation Plan, not a concept plan created before the FSD was approved.

When the site was annexed into the City in 2006, the owners promised farmettes with white picket fences and horses strolling about and water access to the public and that all 75 acres of Mas Que Farm would be preserved in a permanent conservation easement. So far, no easement has been placed on the 75 acres and the owner has rescinded her promise to allow public access to Crab Creek, while quadrupling the size and scope of what was described to the Planning Commission and City Council when they voted to allow the annexation of the site into the City.

Claims that the plan is “shrinking” are incorrect. The applicant indicates that the plan continues to shrink. However, the attached letter to the Annapolis Environmental Commission dated December 11, 2012, indicates a commitment to destroy only 36 acres and replant all 36 acres of trees as opposed to the most recent plan which will destroy 43.48 and replant a mere 5.13 acres[

No justification is given for why the particular acres of priority forest must be destroyed. Moreover, the applicant has still not demonstrated that destroying priority forest, and replacing it by developed land, will not adversely affect water quality. Forest is the land cover that is most protective of local streams and the Chesapeake Bay. It adds the lowest load of nutrient and sediment pollution. The applicant has provided no quantitative information about the additional pollution loads that will accompany development. The AEC believes that on-site negative impacts will be significant, will adversely affect stream and Chesapeake Bay water quality, and that the city must require both estimation of likely impacts and their effective mitigation.

The letter dated September 5, 2014 and attached as exhibit L to the applicants PFCP postpones providing an adequate and detailed stormwater management plan, ignores the need for such information as a basis for review before the plan can be judged complete and correct. Instead, the applicant continues to claim that the water will be in better condition when it reaches Crab Creek that it will be with full forest cover. The city can and should require the developer to provide a detailed stormwater management plan and any other information that can support this now unsupported claim.

Inappropriate Introduction of “Breakeven Point” Analysis

The applicant incorrectly indicates that once it meets the “breakeven point” it has met the minimum requirements for retaining forest under the FCA. This is not true.

The Forest Conservation Threshold calculations found in Natural Resources Article Section 5-606 of the State Forest Conservation Act: Afforestation; forest conservation thresholds are to be completed, “After all reasonable efforts to minimize the cutting or clearing of trees and other woody plants have been exhausted in the development of a subdivision or project plan.”

Furthermore, the breakeven point calculation which yields the amount of forest retained beyond which no mitigation is required, appears in the Technical Manual only and is not part of the Natural Resources Article or Model Code passed by the State of Maryland. This was not adopted by the City of Annapolis. Regardless, it is not the minimum requirement and should not be looked on as such.

Ensuring Forest Contiguity

While the main Continuing Care Retirement Community building (CCRC) in this submission is placed north of the intermittent stream, the AEC finds that the PFCP is still inadequate for retaining forest contiguity. Development still planned south of the intermittent stream will eliminate and fragment forest.

More seriously, the buildings that are still planned for the southwestern portion of the site require a major road that will break the contiguity of the wildlife corridor/Greenway, and stand in the way of preserving and enlarging that corridor through afforestation.

The AEC mentioned in prior comments concerning the Forest Stand Delineation, that the forest boundaries are inaccurate in places, and show less contiguity than actually exists. For example, the forest is contiguous across Crystal Spring Farm Road. The unbroken tree canopy, which meets the normal definition of forest contiguity, is vital for many bird species that thrive in this forest. Also, the area between Stand A and the forest to the southwest is much more contiguous than depicted on the FSD and FCP. In fact, AEC members, with the permission of the owner, measured and the narrowest point between these exceeds 100 feet.

Ecological Values: Specimen Trees

The PFCP proposes to remove 18 specimen trees with DBH of 30 inches or greater. Pursuant to the Forest Conservation Act, such trees “shall be considered priority for retention and protection, and they shall be left in an undisturbed condition unless the applicant has demonstrated to the satisfaction of the State or local authority that the applicant qualifies for a variance under § 5-1611 of this subtitle...” MD. CODE ANN. NAT. RES. § 5-1607(c)(2)(iii). The Act states in § 5-1611 that the “State and local authorities shall provide for the granting of variances to the requirements of this subtitle, where *owing to the special features of a site or other circumstances*, implementation of this subtitle would result in unwarranted hardship to an applicant. MD. CODE ANN. NAT. RES. § 5-1611(a) (emphasis added). The law provides two guidelines for the development of variance procedures by local authorities. They shall (1) “[b]e designed in a manner consistent with the spirit and intent of [the Forest Conservation Act]”; and (2) “[a]ssure that the granting of a variance will not adversely affect water quality.” *Id.* at § 5-1611(b).

In addition, DNEP set forth Forest Conservation Act Development Review Criteria on July 2, 2012, which spells out in I. B. 3 that trees having a DBH above the ground of 24 inches, must qualify for a variance under Natural Resources Code Ann. Sec.5-1611. We have been unable to locate variance requests for these trees.

Ecological Values: Forest and Wildlife

The PFCP still fails to describe how the ecological values of forest and wildlife will be preserved.

The highest quality priority forest is dominated by large white oaks, containing wetlands, drainage headwaters, numerous specimen trees, few invasive species (primarily along an old road), a diverse forest structure (rated “Good” in the FSD), and high regenerative potential. The AEC, during a permitted visit, measured two representative canopy white oaks in different parts of the stand with diameters at breast height (DBH) of 18.7” and 17.6”, corresponding to a stand age of at least 80 years. Many trees are much bigger than this. Historic aerial photos confirm that this forest is at least this old. The high canopy and dense understory provide excellent forest bird habitat. Forest health appeared excellent during AEC’s visits from 2011-13, with only occasional snags or downed logs (which actually are important habitat elements). The stand contains numerous oak seedlings, indicating good recruitment and long-term persistence. It serves as essential wildlife habitat and a broad-scale corridor linking offsite forest, as recognized by Anne Arundel County’s Greenways Master Plan. See Master Greenways and Small Area Plan section, below.

Over 200 bird species, including many interior forest passerines, have been found on the property. This is one of very few properties remaining in Annapolis with habitat suitable for these birds. According to Ross Geredien, a professional biologist with expertise in ornithology, the following birds listed by Maryland Dept. of Natural Resources (DNR) as having the greatest conservation value, have been confirmed breeding at the property: Field Sparrow, Acadian Flycatcher, Brown Thrasher, Eastern Towhee, Hairy Woodpecker, Wood Thrush, Scarlet Tanager, Pileated Woodpecker. “There are several other species,” he wrote, “at least 20 more, on the list that overwinter on or migrate through the property but that do not breed there in the summer. Typically, breeding habitat is the most critical for species conservation, but wintering and stopover areas are important for species as well. Hence the overall value to birds of greatest conservation need is quite significant. A few of the species, like Brown Thrasher, Eastern Towhee, and Field Sparrow, actually are there year-round.”

Forest fragmentation has many negative effects including promoting the spread of invasive species and impacting sensitive native wildlife. Several of the birds on the list above require large areas of contiguous interior (away from edges) forest to breed successfully.

Ecological Values: Wetlands and Hydrology

The Crystal Spring property has a seasonally high water table throughout much of the site, and contains several acres of functional nontidal wetlands. These provide important ecosystem services, including abatement of stormwater runoff, groundwater recharge, and maintaining water quality in Crab Creek and the South River. In addition to the intermittent stream that drains through the center of the property to the south, there is also a smaller drainage to the west of this stream that provides periodic surface flow from the wetlands in the 80+ year old white oak-dominated stand, and several smaller areas of hydric soils that weren’t noted on the consultant’s maps. The forested wetlands are likely linked via subsurface flow as well, as most of these soils are permeable sandy loams.

Conversion of contiguous forest to buildings, roads and parking lots is likely to alter site hydrology. Any development should be carefully planned with preservation of wetland and stream hydrology in mind.

Relocation of the CCRC building away from the most ecologically important portion of the site is helpful. However, it still infringes on the Wetland B buffer, and converts a large proportion of its drainage area from forest to impervious cover. The AEC doubts strongly that green roofs can compensate for such a dramatic change.

The houses proposed to be sited in the southwestern portion of the site will have a major impact in terms of forest loss, fragmentation, and blocking afforestation that can help to guarantee a functional eco-corridor. The AEC urges that this portion of the site remain undeveloped.

This submission did not contain stormwater plans which are crucial to maintaining the hydrology of wetlands and streams. Therefore, the AEC reserves comment on stormwater and hydrology issues until such plans are submitted. The preliminary stormwater management computations (Exhibit M) claimed no significant increase in discharge to the intermittent stream or to the Crab Creek drainage to the west. The proposed project does increase discharge to the east arm of Crab Creek (via Site Outfalls 2 and 2A). AEC did not evaluate whether this increase of discharge would increase soil erosion, and recommends that the city require the developer to demonstrate that they will not increase the discharge of sediment, nutrients, or other pollutants into Crab Creek, nor scour any ephemeral drainages. Step pools or other outfall systems might mitigate potential damage if properly designed. The AEC recommends increasing the buffer around the intermittent stream to 300 feet and permitting the development to take place only north of the stream.

At least one wetland, a vernal pool, is not mapped on the PFCP, and should be included. The grassy vernal pool in the southwest portion has been observed holding standing water, supports amphibian breeding (e.g., spring peepers), and contains hydric soils (according to a core performed on April 18, 2013). Vegetation is affected by repeated mowing, and a sizeable drainage pipe removes standing water quicker than at the forested vernal pool to the north of it. The AEC has recommended for over two years that the city examine this vernal pool using a certified wetland delineator independent of the developer. We continue to urge this review.

The AEC supports functional wetland and stream buffers (generally at least 100 feet, but it depends on surface and groundwater flow), rather than the state regulatory minimums. For example, 25 feet for nontidal wetlands is insufficient to protect against altered hydrology, increased sediment and pollutant input, wind throw, increased solar radiation, invasive species, songbird predators, and other edge effects. Amphibians like spring peepers and wood frogs require contiguous forest to move between breeding sites and feeding areas.

The City has agreed not to permit the alteration of the hydrology on this property and has the authority under both the Forest Conservation Act as well as Chapter 21.62.080 *Surface water drainage*. It states that "A proposed development shall be designed to provide for proper surface water management through a system of controlled drainage that, wherever practicable, preserves the existing natural drainage patterns and wetlands, enhances groundwater recharge areas..."

Proposed Development Area Inconsistent with Established Planning Documents

The current PFCP is wholly inconsistent with the scope of development proposed in the Annapolis Comprehensive plan, and with two other important planning documents.

Annapolis Comprehensive Plan, Chapter 3 - Land Use and Economic Development, Page 33 says:

“Policy 1. Growth will be directed primarily to four Opportunity Areas, illustrated in Figures 3-7 through 3-10 and reflected in the Future Land Use Map. Over the next decade, the City will formulate detailed land use and urban design plans or sector studies for each of the four opportunity areas.

1.1 The detailed area plans should identify the necessary role of the City and other public entities in facilitating redevelopment, including, for example, infrastructure improvements and zoning changes.

1.2 Each of the four opportunity areas should be developed as models for ecologically sustainable urban development.” No sector study has been completed for this area.

Furthermore, Chapter 7- Environment, Page 96, says:

“Policy 2.5. To help achieve the City’s environmental goals and ensure high quality development, the City will create a Site Design Manual that will replace the 1986 Parking and Landscaping Manual. The Site Design Manual will provide guidance on design of the landscape on public and private development sites. This will include planting with a preference for water conserving plants and plants tolerant of urban soils, rainwater management, tree preservation, and soil management. Best management practices for handling the impacts of development, use of pervious and impervious paving materials, design of parking areas, lighting, internal circulation, and other matters related to site development should also be addressed in the Manual.

The Site Design Manual will aim to make the site design process more predictable. The Manual will be coordinated with the City’s Green Building standards and other sections of the City Code governing trees and other planting, grading, critical areas, and rainwater.” No such Site Design Manual has been drafted.

The Anne Arundel Greenway Master Plan (GMP) and the Annapolis Neck Small Area Plan (ANSAP), both identify the Crystal Spring Farm area as an important environmental space. The GMP pulls together various small area plans, states (table 4 page 35):

“A major greenway system for the Neck extending from Waterworks Park to Thomas Point, or CBF at Bay Ridge. Connect this system to the American Discovery Trail and the East Coast Greenway (Map 15). The greenway would extend from the headwaters of Church Creek to Quiet Waters Park and include the Masque Farm/Crystal Spring Farm area and the Hunt Meadow Woods open space.”

“Greenway would preserve a connected system of natural areas and provide for wildlife movement.”

The ANSAP states (p. 43): “Other large tracts of privately-held undeveloped land that are considered to be important environmental features include the Masque Farm/Crystal Spring Farm site on Spa Road.”

This recommendation is on p. 83: “Target Forest mitigation efforts to areas designated for the greenway where possible.”

Map 18 (p. 98) from this plan shows that the entire area of Masque Farm and Crystal Spring are included as part of the Greenway and the map titled “Middle Annapolis Neck” at the end of Appendix B shows Crystal Spring as an area to be protected. The plan also identifies the “Area west of end of Crystal Spring Farm Road at headwaters of Crab Creek” as a potential area for reforestation. (Table B-4, p B-8).

The developer has failed to incorporate either the Anne Arundel Greenway Master Plan or the Annapolis Neck Small Area Plan in the PFCP. Since the Greenway Master Plan, and the Annapolis Neck SAP constitute local land use plans, DNEP should consider them in its evaluation and conservation and mitigation efforts.

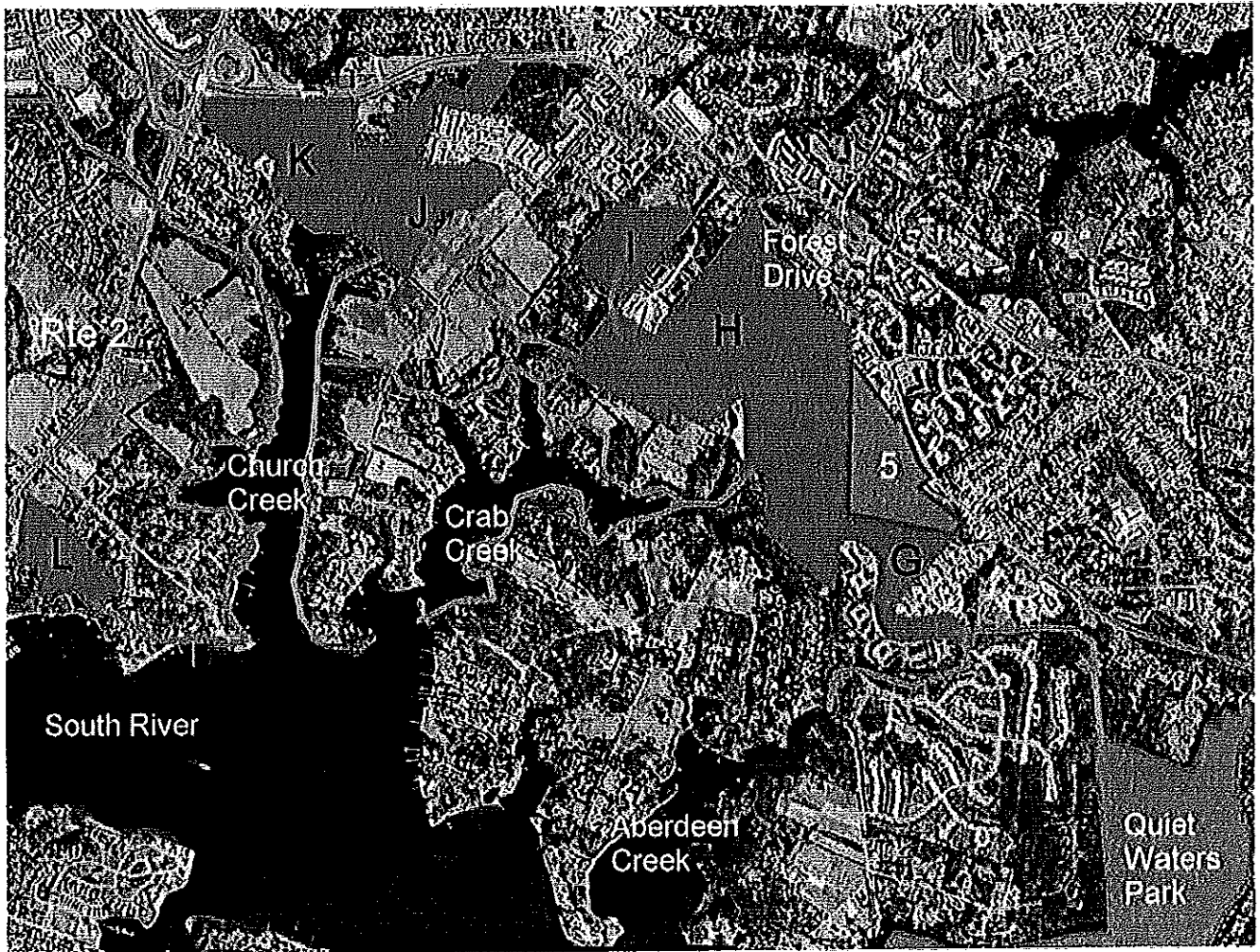


Figure 1, from the Anne Arundel County Greenway Master Plan

Tree Canopy

The submitted forest clearing justification is incorrect in asserting that the project will “increase the tree canopy to 54%, which exceeds the City of Annapolis Comprehensive Plan Goal for 2036 of 50%.”

It is wrong in its implicit assumption that the goal applies to individual properties, rather than to the aggregate of all properties comprising the City *in toto*, and is misleading in its conclusion. Among all private tracts, the proposed Crystal Spring development site contains the largest forest block in the

City and now contributes the largest single source of canopy cover toward meeting the Annapolis-wide goal. It is obvious that removing 3.48 acres of forest to make way for the development will *reduce* that contribution, and take the city backward in its progress toward its overall tree canopy goal. Losing 43.48 acres of forest will virtually ensure that the City will not attain a 50% tree canopy by 2036.

Mitigation of environmental impacts

The developers should avoid and minimize negative impacts to the forest, wetlands, hydrology, and other natural resources to the degree possible. Impacts not avoided should be mitigated. To conform to the city's goal of increasing rather than decreasing tree canopy, all forest removed should be replaced at least acre for acre. The AEC identified some possible reforestation areas (Figure 2 below) that would improve forest connectivity and contiguity and help protect Crab Creek and the South River.

The recommendation is consistent with the recommendations of the Annapolis Neck Small Area Plan: "Target Forest mitigation efforts to areas designated for the greenway where possible." That plan identifies the "Area west of end of Crystal Spring Farm Road at headwaters of Crab Creek" as a potential area for reforestation. (Table B-4, p B-8).

The Crystal Spring forest is a significant local carbon sink, that is, it sequesters carbon in biomass and soils from carbon dioxide removed from the atmosphere by photosynthesis, otherwise to remain there as a greenhouse gas. The planned development will convert the site from being a carbon sink to a large carbon source, increasing the city's contribution to carbon dioxide emissions and consequent climate change contrary to the city's goals as stated in its sustainability plan. City policy is to reduce rather than increase its greenhouse gas emissions, so the AEC recommends that the city evaluate carbon balance consequences of this development and require measures to mitigate those impacts.

Green Development Initiatives mentioned in the PFCP are potentially helpful, especially those relating to parking, if parking includes the creation of multilevel parking that will significantly reduce impervious surface area. Others of these initiatives have not been evaluated but we surmise that their collective effectiveness will be dwarfed by the removal of forest contemplated by the PFCP.

On-site and Off-site Mitigation

Mention is made of possible voluntary restoration of watercourses flowing from offsite drainage areas. While such activities may be commendable, they do not address the large negative impacts that will be created on-site. The scale and effectiveness of such off-site mitigation efforts is not quantified and is not wholly relevant to the PFCP which must focus on on-site environmental efforts.

Crystal Spring Conservation and Restoration Areas (DRAFT 10-3-2012)

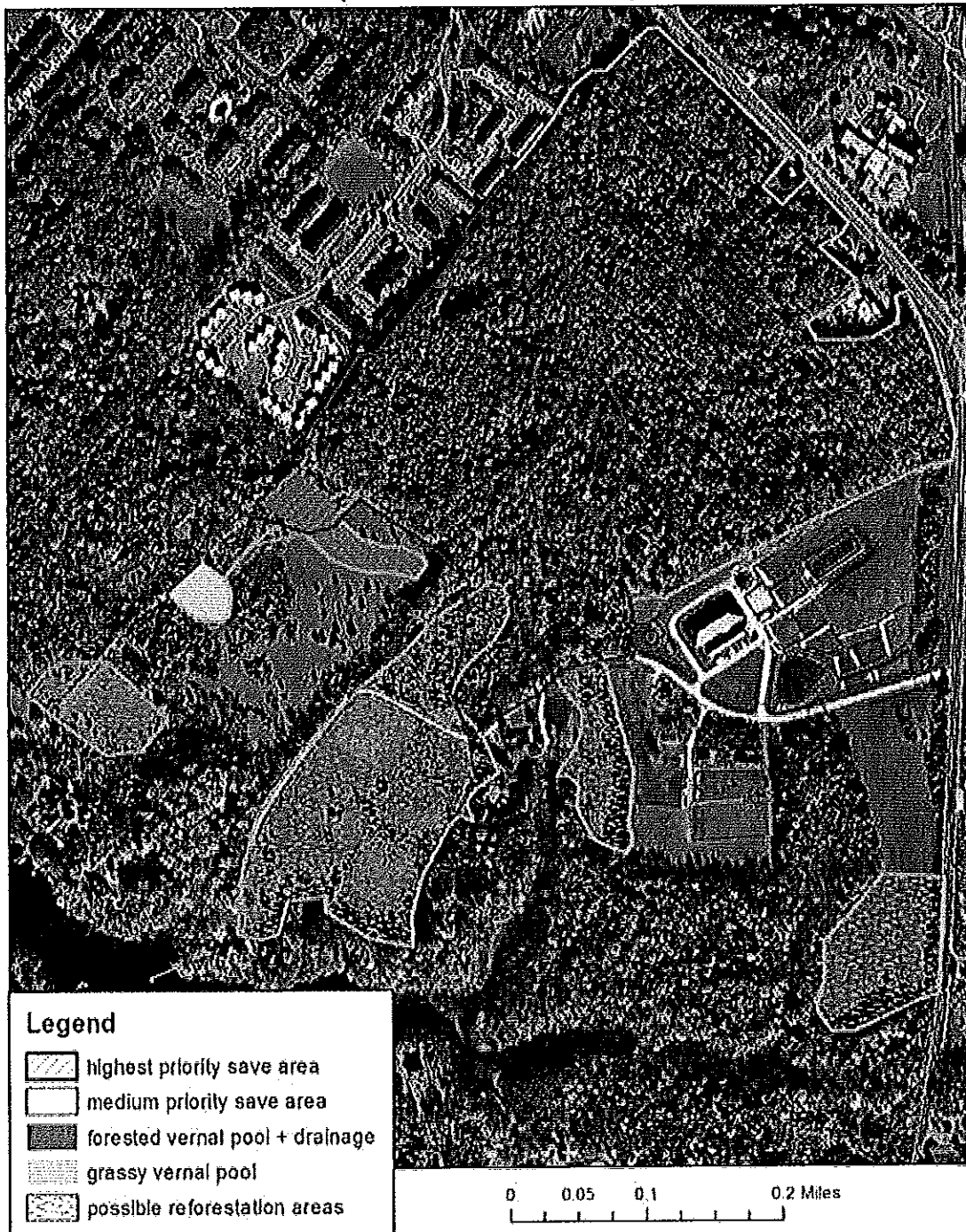


Figure 2 Map produced by Annapolis Environmental Commission in 2012 of priority reforestation and preservation areas on the Crystal Spring property.

The developers again cite their agreement with the South River Federation (SRF) to undertake improvements to stormwater drainage to Crab Creek as part of their justification to destroy priority forest. This gesture cannot be considered as part of the rationale to award a variance to the developers. The Forest Conservation Act aims to protect priority forest and the only mitigation measures contemplated under the Act are on-site or offsite reforestation, or payment to a fund used for reforestation as mitigation measures after all techniques and retention options have been exhausted. (See Md. Nat Resources Code Ann 5-1607) The Act does not contemplate or recognize other types of restoration measures as equivalent to retention of retaining priority forest, nor does it recognize them as justification for destruction of priority forest. Therefore, the city should accord no weight to an alleged agreement with SRF case for granting a variance.

On the other hand, while on-site emphasis is always the most productive, the city should encourage off-site reforestation and afforestation and secure binding commitments that will help to offset environmental damage caused by the Crystal Spring development.

Afforestation Plan

(1) "Forest land" means a biological community dominated by trees and other woody plants ... at least 100 trees per acre with at least 50% of those trees having a 2-inch or greater diameter at 4.5 feet above the ground.

(2) "Forest land" includes forested areas that have been cut but not converted to other land uses.

Tree replacements under City Code Chapter 17.09.070 should be enforced, such as requiring two trees on site for each tree removed, when diameters are between 18" and 24," etc. The developer did submit details showing there were 178 trees between 24" and 30" DBH with many of them removed in the development plans.

Street trees should not qualify toward forest mitigation. They do not remotely compensate for the destruction of naturally functioning mature forest. Neither does the state consider isolated trees as forest. Replacement should be native forest (e.g., oak-hickory, or whatever species mix is appropriate for the planting site). The applicant should be required by the City to replant at least 44.24 acres of forest that are destroyed during development, and because it takes 80 years for a tree stand to mature and provide the ecological benefits that had been provided by the existing priority forest, the City should apply the higher 2:1 ratio when applicable under the Code. One should keep in mind it will take 80 years to regain what's been lost, and even then the new forest will be behind the curve. For that reason, and because so many planted trees die, the AEC favors 2:1 to 4:1 afforestation ratios (similar to wetland requirements and the city tree replacement code, with the ratio depending on the age and condition of the forest destroyed). Also, any mitigation projects should be monitored (at least 5 years, with 10 preferable), and dead trees replaced. MDE requires 5 years of monitoring for wetland projects.

The City Code gives authority to the City to require replanting of trees removed during development. Chapter 17.09.070 establishes guidelines to allow development while also minimizing impacts to existing woodland communities and to encourage afforestation with species native to the area. Other stated purposes of this section of the code are to establish standards of practice for the preservation of trees and the environmental design of landscapes in development areas in order to better control soil

erosion and the transport of sediment, improve the environmental quality of surface and ground waters, screen noise, and preserve, protect and enhance wildlife habitat.

Furthermore, the section provides that where any provision of the Forest Conservation Act (FCA) and a provision of the City Code both apply, the more restrictive requirements may be employed. Therefore, even if the FCA does not require reforestation, the City code section can apply and require reforestation for a development. The code under section 17.09.070 (F) even notes that the reforestation required by the Forest Conservation Act should be considered the minimum applicable standard for replacement of trees.

Applicants seek to destroy 43.48 acres of priority forest by concentrating their buildings near Forest Drive where the priority forest is dense, mature and functioning well. Because the City will lose the ecological value and water quality value of the only remaining large tract of priority forest, and considering the loss of these acres will set the City back more than 43 acres from our tree canopy goal, the City should strictly require replanting of the trees on the replacement basis set forth in table 17.09.070.

The areas identified by the AEC identified as possible reforestation/afforestation areas (Figure 2 above), which are below the intermittent stream, would improve forest connectivity and contiguity. Also creation of forest cover closer to the water will help protect water quality of Crab Creek and the Chesapeake Bay. It should be noted that all of Maryland including Annapolis is subject to a federally imposed Total Maximum Daily Load that requires reduction of pollution and improvement of water quality. Maintaining forest cover is one of the best and least costly strategies to reduce pollution.

City code intends that tree replanting be on-site unless this cannot be accomplished. Afforestation should be limited to the Crab Creek watershed and be configured to increase forest connectivity and contiguity.

Afforestation/Reforestation of Meadow Area

Consistent with the Small Area and Greenway Master Plan which recommend afforestation in the meadow area of the site, This location also supports valuable ecosystem services as outlined by Eric C. Sprague, who co-authored the definitive report *State of the Chesapeake's Forest*. Sprague concludes that if 13.3 acres of meadow at Crystal Spring Farm were planted with trees, residents would see ozone pollution reduced by 750 pounds per year and dust, smoke and other particulate matter by 400 pounds per year or the equivalent of removing 520 cars from the road each year. In addition, if the existing 2.56 acres of trees were removed, Annapolis residents would see a decrease in the city's urban tree canopy to remove 144 pounds of ozone and 75 pounds of dust, smoke, ash and other particulates. In terms of air quality, the site part of region with high value to water quality. The loss of trees at Crystal Spring will have a larger effect on water quality than other less important regions.

If 13.3 acres of meadow at Crystal Spring Farm planted with trees, Annapolis would reduce nitrogen loads to the Chesapeake Bay by nearly 100 pounds per year. Phosphorus loads would be reduced by 5 pounds and sediment loads by 1,584 pounds per year.

If the existing forested 2.56 acres were lost, Annapolis would need to find other ways to reduce 18 pounds of nitrogen, one pound of phosphorus, and 305 pounds of sediment every year to maintain existing water quality at the site.

If the meadow was developed instead of forested, the site would see an increase of 148 pounds of nitrogen, 14 pounds of phosphorus, and 7,196 pounds of sediment pollution each year.

Carbon Sequestration -Trees sequester greenhouse gases emitted from cars, power plants and other sources as they grow and so help to offset emissions from Annapolis residents and businesses. If protected in perpetuity, 13.3 acres of tree plantings on the meadow at Crystal spring farm would sequester 632 metric tons of carbon over 100 years. This is the equivalent to the annual carbon emissions of 133 cars. Losing the existing 2.56 acres of existing trees would effectively remove 123 metric tons of carbon from the City's "carbon bank."

Soil Resilience -Soil types vary in their resilience or ability to bounce back from disturbances. Sites with high resilience are more forgiving to a range of disturbances like development than those with low resilience. Nearly 80% of the meadow soils at the Farm are classified as "Annapolis" (AoB) soil and have low resilience to disturbance.

Forest Productivity -While all woodlands have value to wildlife, water quality, and clean air; some woodlands are more fertile and better able to support plant and tree growth than other sites. The sandy loam soils on the Crystal Spring Farm meadow are highly productive. Therefore, planting trees on this site has potential to create healthy woodlands.

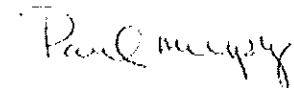
Critical Area -While the meadow is just outside of the critical area, new tree plantings will only enhance the water quality and wildlife habitat services provided by the buffer. New trees will also increase the resilience of the Critical Area to flooding, forest pests, and other disturbances.

The ecosystem services impacts to the City are enormous. Based upon the local land use documents as well as scientific understanding of the site, the logical area for afforestation/reforestation of any Priority Forest destroyed, is the meadow on site.

Summary

For the reasons stated above, the AEC urges the City of Annapolis to reject the Preliminary PFCP and associated documents, as detailed above, and to require revisions that satisfy these concerns.

Sincerely,



Paul Murphy, Chairman
Annapolis Environmental Commission

CC: Mayor Mike Pantelides, Alderman Joe Budge, Alderman Fred Paone, Alderwoman Rhonda Pindell Charles, Alderwoman Sheila Finlayson, Alderman Jared Littmann, Alderman Kenneth Kirby, Alderman Ian Pfeiffer, and Alderman Ross Arnett

Note 1

Refer to *Belvoir Farms Homeowners Ass'n v. North*, 355 Md. 259 (1999) (in the context of a variance, an unwarranted hardship is equivalent to the denial of reasonable and significant use of the property); *see also Loyola Federal Sav. & Loan Asso. v. Buschman*, 227 Md. 243 (1961) (it is settled Maryland law that the fact that some use other than that which is permitted under a zoning ordinance would be more profitable than a permitted use, is not enough to invalidate a use restriction if the property can reasonably be used for some purpose for which it is adapted). Mere financial hardship or an opportunity to get an increased return from the property is not a sufficient reason for granting a variance. *Daihl v. County Board of Appeals*, 258 Md. 157, 167, 265 A. 2d 227, 232 (1970)

This point is also more simply expressed as: "if reasonable use exists, generally an unwarranted hardship would not." *North v. St. Mary's County*, 99 Md. App. 502, 517-518 (1994) (holding that denial of requested variance to build a gazebo on a property already used for residential purposes is not an unwarranted hardship). It is therefore reasonable to require the developer to further modify the project to reduce impacts to the priority forest areas.



Maria Broadbent <mbroadbent@annapolis.gov>

Correction, Typographical Errors, Crystal Spring Comments

1 message

Kurt Riegel <kurt.riegel@gmail.com>

Thu, Feb 5, 2015 at 11:16 PM

To: Maria Broadbent <MBroadbent@annapolis.gov>

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Maria Broadbent, DNEP

As mentioned in the last AEC meeting, there are minor typographical errors in the "Tree Canopy" paragraph of our formal comments to the Crystal Spring Preliminary Forest Conservation Plan.

"... removing 3.48 acres of forest ..." should read "removing 43.48 acres of forest". The attached document is identical to the one submitted except for the corrected inclusion of that single digit and replacement of "no attain" by "not attain."

Kurt Riegel
Annapolis Environmental Commission
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 AEC-CS-PFCP-final.pdf
702K



Unknown ForestConservationAct <forestconservationact@annapolis.gov>

Crystal Spring

1 message

F&G Page <page249@comcast.net>

Fri, Jan 30, 2015 at 4:35 PM

To: ForestConservationAct@annapolis.gov

Please do not let the Crystal Spring development go through. I would prefer it was not built at all, but definitely not as it is currently planned, or the new proposal. Too many laws are being violated or circumvented. The roads and schools cannot handle the additional loads. We need to preserve as much of our natural habitat as we can for so many reasons. Please do not let the big developer win out over what the majority of the city residents want.

Respectfully,
Gabrielle Page
1002 Sandpiper Lane
Annapolis, MD 21403



Unknown ForestConservationAct <forestconservationact@annapolis.gov>

Crystal Spring

1 message

Jane McWilliams <jmcwill2@verizon.net>
To: ForestConservationAct@annapolis.gov

Fri, Jan 30, 2015 at 5:05 PM

January 30, 2014

The Honorable Michael J. Pantelides

Mayor of Annapolis

City Hall

Annapolis, Maryland 21401

Dear Mayor Pantelides:

Zoning laws allow a government to control land use within its borders for the benefit and protection of its citizens and its businesses. The first zoning in Annapolis was contained in the "Act for keeping good Rules & Orders in the Porte of Annapolis," passed by the Maryland legislature in 1696, shortly Governor Francis Nicholson moved the capital of Maryland to the tiny town on the Severn. In accordance with the 1696 act, Nicholson designated areas for wharves and warehouses, for the "Ship Carpenters' Lot," and for the Town Common and public pasture. A few other ordinances that affected land use were implemented over the next 250 years, but the City Council did not take on responsibility for modern zoning until it annexed the land surrounding the city in 1951.

Public good is the principle behind good zoning, and public good may sometimes come up against private gain. Under zoning laws, a property owner may not be allowed to develop his land to the full extent possible. Whether restrictions on his land use concern purpose, size, location, infrastructure capacity, design requirements, or environmental quality, those restrictions are in place for the benefit of the population as a whole, both now and in the future.

This is the situation today with Crystal Spring's application for approval of its December 2014 preliminary Forest Conservation Plan. The owners wish to maximize their use of the land. Certainly this would give them the maximum financial benefit from their investment. But is that in the best interest of the city as a whole? The 2009 General Development Plan for the Katherine Property states that development of this parcel must prioritize "maximum land conservation." "Much of the Opportunity Area," it says, should "maintain its natural and forested character."*

My Random House Unabridged Dictionary (2nd edition) defines MUCH as "great in quantity, measure, or degree." The Crystal Spring December 2014 map does not show a great quantity of the subject area as retaining its natural and forested character. The majority of land is given over to buildings and infrastructure. A narrow swath of contiguous wooded land crosses the property between sections of dense development. Intermittent parts of the map are green; the natural and forested character is gone.

Almost all of the "Urban Center Low" area, which had until the 2009 GDP been zoned as "office," is owned by a number of private LLCs. The GDP allows these parcels to have an increased commercial presence, but, again, that commercial presence must not infringe on the "natural character of the remainder of the area."

In this case maximum development and maximum land conservation are opposing concepts: private gain vs. public benefit. If the developers of Crystal Spring are allowed circumvent the GDP and destroy the natural and forested character of the majority of this property, the city has lost this fight and, with a precedent in place, will certainly lose others.

As you stated last year, all development on the land should lie in the northern section, close to Forest Drive. The housing shown on the December 2014 Crystal Spring map at the lower portion of the property must be moved or deleted. By minimizing the commercial uses along Forest Drive, the entire CCRC can move into the portion now slated for redundant uses such as the inn, cultural arts building, Wellness House, and non-age-restricted housing. Those businesses and services can already be found within a mile or two of the site: the Forest Drive Safeway, the Point at 1901 West Street, Maryland Hall, and any of the nearby hotels, for instance.

Please do not allow the developers of Crystal Spring to bully the city into a decision that would not only destroy valuable woodlands but also would throw the General Development Plan and future city zoning into question.

Sincerely yours,

Jane W. McWilliams

jmcwill2@verizon.net

15 Mayo Avenue

Annapolis, MD 21403

410-268-2579

*Except as noted in the text, all quotations come from *Annapolis Comprehensive Plan*, Chapter 3 - Land Use and Economic Development, pp. 29, 30.



Unknown ForestConservationAct <forestconservationact@annapolis.gov>

Public Comments on FCP for CSF

1 message

Ross Geredien <goodmigrations@yahoo.com>

Fri, Jan 30, 2015 at 5:07 PM

Reply-To: Ross Geredien <goodmigrations@yahoo.com>

To: "ForestConservationAct@annapolis.gov" <forestconservationact@annapolis.gov>, Maria Broadbent <mbroadbent@annapolis.gov>

Maria, Please find the Friends of Crystal Spring's comments on the latest FCP. Also attached are some 831 signatories to our petition opposing the approval of the FCP.

Respectfully submitted,

Ross Geredien
Friends of Crystal Spring Farm and Forest.

2 attachments



FCP Public Comments Jan 2015.docx
2250K



Petition 2015.xlsx
49K

Ms. Maria Broadbent, Director
City of Annapolis Department of Neighborhood
And Environmental Programs
City Hall
160 Duke of Gloucester
Annapolis, MD 21401

January 30, 2015

Dear Ms. Broadbent,

Please accept the attached comments on the latest Revised Forest Conservation Plan (RFCP) for the Crystal Spring development submitted to Annapolis Dept. of Neighborhood and Environmental Programs (DNEP) on December 27, 2014. We have reviewed the submitted documents, and based upon our review, once again we must request that the City reject this plan on the basis of unacceptable impacts to Priority Forest under the Forest Conservation Act as well as significant potential underestimation of direct impacts to wetlands; and multiple ambiguities that result in a functionally incomplete, misleading and deficient RFCP. In addition, based on our findings, we are requesting that a new, independent wetland delineation be performed on the property. Until such a delineation occurs, any approval of the project should be suspended. In addition, we have identified several other deficiencies with the proposed development plan as well as with the RFCP itself.

Our independent analysis included geo-spatial review of the new plans submitted, and our findings concurred that this development will clear more than 43.3 (+/- 0.2 acres) acres of forest, almost all of which is contiguous, priority forest. In addition, we examined the non-tidal wetlands using current aerial imagery and data from the Maryland Department of Natural Resources (DNR) to assess the extent of wetlands on the property as well as the direct impacts this development would have on those wetlands. We found that the developers' Forest Stand Delineation from 2013, the most current wetlands map on the DNEP website, significantly underestimated the amount of extant wetlands on the Katherine Property, *by more than 50%!* As a result, the direct impacts assessed by the developer and by MDE are also grossly underestimated.

We have identified 5.31 acres of non-tidal wetlands on the property, according to DNR data. This is more than twice as much as the developer identified in their FSD using field visits from 2010/2011, after which new culverts along Crystal Spring Rd. caused a draining of portions of extant wetlands. In addition, we identified entire wetland areas not even included in the FSD/RFCP that will suffer direct impacts. Current aerial imagery from June, 2014 corroborates the DNR data and the existence of these wetlands, showing a clear wetland signature in the soils and vegetation (see Exhibit 1, attached). When these DNR wetland data are intersected with the project footprint, results indicate that total wetland impacts would likely reach 1.2 acres. If these results can be corroborated by an independent, delineation, this level of impacts disqualifies the project as a minor project under the MDE general permit and suggests that further review by the U.S. Army Corps of Engineers Regulatory Branch in Baltimore is warranted. Even if considered

isolated wetlands, which most likely these are not, this level of impacts exceeds the 1-acre threshold for an MDE letter of authorization for isolated non-tidal wetlands. In contrast, the developers have estimated wetland impacts to be as low as 0.16 acres, a variation of as much as a factor of 10! Such a discrepancy warrants further investigation at a minimum, and full regulatory review by the Corps of Engineers and MDE would be optimal in this case.

Our findings indicate that there is a strong case to be made for the hydrologic connection of the wetlands to jurisdictional Waters of the United States, based on adjacency to tributaries to Crab Creek. Hence a significant nexus exists that makes these non-tidal wetland jurisdictional under Section 404 of the Clean Water Act.

Wetlands are vital ecological resources that are critical to the health of our watersheds and to the Chesapeake Bay. They filter and absorb pollution and nutrients, thereby improving water quality; they provide important wildlife habitat for reptiles, birds, and amphibians, many of which are obligate wetland species; they store carbon in the soil organic matter and in the vegetation; and they are important havens of plant biodiversity. These important ecological functions are not easily replaced. The failure of the applicant to provide an accurate estimation of wetland impacts means that they have not proposed an appropriate level of compensatory mitigation (40 CFR 230.10(d)) to offset these impacts, nor have they adequately demonstrated how they will avoid and minimize these impacts [40 CFR 230.10(a)].

The impacts to contiguous forest will also be unacceptable under the Forest Conservation Act (17.09.025B) as well as to the public interest of Annapolis. The 82 acres of contiguous forest on the Katherine Property together are an outstanding natural resource of the City of Annapolis. It is irreplaceable. This stand of forest is a major local carbon sink and provides wildlife habitat for hundreds of species, including 222 species of birds. It also acts as a water quality insurance policy for the South River through the nutrient filtration and absorption functions that it provides. Studies have shown that once watersheds reach 10% impervious surface, significant degradation to adjacent water bodies results. The non-point source and storm water runoff that this development would create, even with best management practices, would more than offset the benefits currently provided by the forest stand currently on the property.

We would also like to point out that on January 4th, 2015, an American Woodcock (*Scolopax minor*) was documented on the Katherine property by a representative from the Cornell Lab of Ornithology during the Anne Arundel Bird Club's annual Christmas Bird Count. American Woodcock are sensitive to habitat change. They require extensive areas of open fields surrounded by forest edge and shrubby habitat to perform their elaborate mating displays. This species has experienced one of the sharpest declines of all bird species in central Maryland. Crystal Spring Farm is the last known location for this bird south of US 50 on the peninsula. If the Crystal Spring development is allowed to proceed, the bird will be wiped out from the Annapolis peninsula.

This latest version of the project will still clear 43.3 acres of forest, a negligible improvement over the previous version. In addition, the development would be concentrated in the heart of the contiguous forest block on the northeast part of the property, leaving little forest remaining in the northeastern end of the project. This entire block is Priority Forest and includes the most mature

and diverse sections of the forest on the property. The developers have failed to demonstrate why this forest must be cut and have also failed to provide adequate mitigation.

As a result of these deficiencies in the RFCP and the level of known impacts to the Priority Forest and likely impacts to wetlands as well as the inaccuracies, misrepresentations, and insufficient documentation in the RFCP files, we request the City reject the RFCP and request the applicant resubmit materials to address these significant concerns. As part of this process, an independent wetland delineation should be conducted by a reputable, independent state or national expert on wetland delineations.

We thank you for taking these issues seriously. We would be happy to have a follow-up meeting with city officials to discuss these issues further and to provide additional data and information that support our analysis.

Thank you,

The Friends of Crystal Spring Farm and Forest

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Exhibit 1 – Aerial image from June, 2014 showing significant wetland omitted from 2013 Forest Stand Delineation submitted by Crystal Spring developers. This wetland is also documented in the Maryland Department of Natural Resources geo-spatial wetland dataset.

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Unknown ForestConservationAct <forestconservationact@annapolis.gov>

Crystal Spring

1 message

Julia Gibb <feedajane@gmail.com>

Fri, Jan 30, 2015 at 5:21 PM

To: ForestConservationAct@annapolis.gov

To whom it may concern:

I want to voice my opposition to the Crystal Spring development. As a life-long resident of Annapolis, I have experienced years of heartbreak as I've watched development chip away at the last of the beautiful forests in our area.

In addition to this being demoralizing for those of us who love the natural world, and bad for the environment, one can only imagine the traffic nightmare this development would create on top of the congestion that already plagues Forest Drive.

Please don't let this happen to our beautiful city.

Sincerely,
Julia Gibb



Unknown ForestConservationAct <forestconservationact@annapolis.gov>

Submission to Public Comment on Latest FCP Crystal Spring Forest1 message

VALERIE CASASANTO <vcassanto@gmail.com>

Fri, Jan 30, 2015 at 5:24 PM

To: mbroadbent@annapolis.gov, PlanZone@annapolis.gov, ForestConservationAct@annapolis.gov

Date: January 30, 2015

Dear Ms. Broadbent and Members of the Planning Zone and Forest Conservation Act,

I oppose the latest Developer's Plans to develop Crystal Spring Forest. The proposed development would be a disaster for traffic (only way out on a peninsula), disaster for the environment and bad for the residents and would further erode the unique character of the city of Annapolis.

The old paradigm of clear cutting forest to develop is just that. It is an old way of thinking and is not looking at the big picture. Once the trees are gone, you can't get them back. If you destroy a tree, you destroy a whole community. It is definitely not the same to replant trees. This forest serves us all by providing clean air, a purifier, a cooling mechanism, and a habitat for wildlife. The wildlife especially is the forgotten victim and has been further and further pushed out by all the other developments on Forest drive with nowhere left to go. And what will they eat? They need the native plants that grow there, not some random tree the developer's plant and add fertilizers and chemicals to in order to "look pretty". And where ever there is development, there is also a lot of litter from people, not to mention the pollution this project would create (ground water, air pollution from cars). We have a chance to not make the same mistakes we have made in the past.

There are already so many carelessly developed areas in Annapolis in particular Forest Drive in need of restoration. IF retirement housing and more shopping centers are needed, these should be placed there instead. Other cities are recognizing their past mistakes in careless urbanization and are now making efforts to restore the environment. If we allow this development, Annapolis will be going backwards.

We can no longer keep tearing down our forests and creating more sprawl. Even though the developer's modified their plans, it is not the way to go for the above-mentioned reasons. I am just a resident of Annapolis with a full-time job. I have nothing to gain from this. I urge you to look at the big picture and the health and well being of our Annapolis citizens as well as our environment, and reject these plans!

Thank you for your attention and consideration.

Best regards,

Valerie

Valerie Casasanto

PO Box 3503

Annapolis, MD 21403



Unknown ForestConservationAct <forestconservationact@annapolis.gov>

Crystal Development

1 message

Patricia Smith <smithnews@me.com>

Fri, Jan 30, 2015 at 11:00 PM

To: "ForestConservationAct@annapolis.gov" <ForestConservationAct@annapolis.gov>

I know I am too late for comments for this evening but I did want to thank you all for your efforts to slow down and descale Crystal springs.

I hope to give you greater support in the future!

Patty Smith



Unknown ForestConservationAct <forestconservationact@annapolis.gov>

please say no...

1 message

Judith Cohn Gorski <jcgorski@umd.edu>

Mon, Feb 2, 2015 at 10:58 AM

To: "ForestConservationAct@annapolis.gov" <ForestConservationAct@annapolis.gov>

Cc: Judith Cohn Gorski <jcgorski@umd.edu>

Dear Mayor Pantelides:

Thank you for your prompt response and update.

As you may remember, one of the key issues in your election was to stop Crystal Springs. That is the reason many residents voted for you as stated in the editorial in The Capital yesterday written by a Hunt Meadow resident. The traffic, addiitonal unneed and redundant retail space, an increase in population and adverse affects on our schools, and adverse affects on Hunt Meadow and the entire penisula make Crystal Springs a poor development choice for Annapolis.

We hope you remember your campaign promises and work to fulfill them.

Respectfully a taxpayer and city resident,

Judi Gorski